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4 UNITED STATES DISTRICT COURT

5 Northern District of California

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7 KRISTA O'DONOVAN, *et al.*,

8 No. C 08-03174 MEJ

9 Plaintiffs,

**DISCOVERY ORDER RE JULY 26,
2013 JOINT LETTER**

v.

10 CASHCALL INC.,

11 Defendant.

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13 On July 26, 2013, the parties in this matter filed a joint letter regarding Defendant's responses
14 to Plaintiffs' Request for Production of Documents, Set 5, Request Nos. 1 and 2. Jnt. Ltr., Dkt. No.
15 150.16 Request No 1 seeks, "the complete loan documentation for all loans, lines of credit, and/or
17 credit facilities of any kind providing loan funds of any other kind of credit to CashCall during the
18 unconscionability class period." *Id.* at 3.19 Request No. 2 seeks, "all program descriptions, product descriptions, business plans,
20 marketing plans, prospectuses, reports, studies, and any other description of CashCall's consumer
21 lending programs or products that CashCall provided to any lender who provided any loan, line of
22 credit, and/or credit facility of any kind to CashCall during the unconscionability class period." *Id.*23 Plaintiffs contend that CashCall has failed to produce all documents responsive to Request
24 No. 1 and has completely failed to produced documents responsive to Request No. 2. Specifically,
25 Plaintiffs assert that they have not received the following documents:26 1. All pro forma documents CashCall provided to prospective third-party lenders, such as
27 Profit & Loss Statements;
28 2. All correspondence to/from third-party lenders;
3. All documents evidencing the profitability of the loans being sought;

1 4. All documents concerning interest charged to CashCall;
2 5. All profitability or other financial analysis of CashCall done by third-party lenders.

3 *Id.* at 2.

4 CashCall, however, maintains that, “[i]n response to [Plaintiffs’] requests, CashCall has
5 produced the loan documentation for every loan it obtained during the unconscionability class
6 period.” *Id.* at 4. It asserts that “[t]hese documents provide all the terms of the loans, including the
7 various interest rates that the lenders charged CashCall.” *Id.* Defendant also asserts that it has
8 produced documents that it prepared and provided to the lenders, including pitch books describing
9 CashCall’s business and financial condition and profitability models. *Id.* CashCall further states that
10 following the deposition of its CFO, Delber Meeks, it produced 2,050 additional pages of responsive
11 documents and then voluntarily produced Mr. Meeks for a second day of deposition on July 8. *Id.*
12 Thus, CashCall argues that “all outstanding disputes relating to Request Nos. 1 and 2 were resolved
13 by July 8, and Plaintiffs never contacted CashCall thereafter to discuss this purported dispute or to
14 meet and confer about filing the instant motion.” *Id.*

15 According to CashCall, “Plaintiffs’ real goal is to compel the production of documents that
16 they did not even request in Request Nos. 1 and 2.” *Id.* Specifically, it asserts that of the five
17 categories of documents Plaintiffs asserts have not been produced, category nos. 1 and 4 fit into
18 Request Nos. 1 and 2, in response to which CashCall produced thousands of documents. *Id.* at 4. As
19 to category nos. 2, 3, and 5, it argues that the documents sought are outside the scope of Plaintiffs’
20 two requests. *Id.* 5. Instead, CashCall argues that Plaintiff has sought such documents through
21 document requests from third-party lenders. *Id.*

22 The Court has considered the parties’ positions and rules as follows. As to category nos. 1
23 and 4 described above, the Court agrees with CashCall that such documents fall within the scope of
24 Request Nos. 1 and 2. CashCall has represented that it has produced all documents responsive to
25 these requests. Accordingly, within 5 days of this Order, counsel for CashCall shall file a
26 declaration, stating under oath, that CashCall has identified and produced: (1) all pro forma
27 documents it provided to prospective third party lenders (including Profit & Loss Statements); and
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1 (2) all documents concerning interest charged to CashCall. As to category nos 2, 3, and 5, the Court
2 agrees with CashCall that Plaintiffs have failed to demonstrate how those documents fall within their
3 Request Nos. 1 or 2 or why Plaintiffs believe CashCall, rather than the third-party lenders, possess
4 those documents. Accordingly, there is no basis to compel further production of documents at this
5 time. The Court therefore **DENIES** Plaintiffs' request to compel production of documents relating to
6 its Request for Production of Documents, Set 5, Request Nos. 1 and 2.

7 **IT IS SO ORDERED.**

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9 Dated: August 13, 2013

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Maria-Elena James
United States Magistrate Judge

